



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 6, 1998

Mr. Jesús Toscano, Jr.  
Administrative Assistant City Attorney  
City of Dallas  
Office of the City Attorney  
City Hall  
Dallas, Texas 75201

OR98-1139

Dear Mr. Toscano:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 114930.

The City of Dallas (the "city") received a request for the tests and scores given to certain individuals interviewing for the Load Operator position opening in the Equipment Communications and Information department in November 1997. You state that the city has released the test scores to the requestor. However, you claim that the tests are excepted from disclosure under section 552.122(b) of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 (1994) at 6. Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). You indicate that the city will use the submitted information to evaluate future applicants. After reviewing the submitted documents, we conclude that the city may withhold the questions and answers under section 552.122(b).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue

under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "June B. Harden". The signature is fluid and cursive, with the first name "June" and last name "Harden" clearly distinguishable.

June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/gle

Ref.: ID# 114930

Enclosures: Submitted documents

cc: Mr. Todd Comitini  
Staff Representative  
Texas Public Workers Association  
400 Collins Street Suite 102  
Arlington, Texas 76010  
(w/o enclosures)